

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4421 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI
and
Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

RAMABHAI ISHWARBHAI PATEL

Versus

MUNICIPAL CORPORATION OF CITY OF AHMEDABAD

Appearance:

MR RM VIN for Petitioner
MR BP TANNA for the Respondent-absent.

CORAM : MR.JUSTICE R.K.ABICHANDANI
and
MR.JUSTICE KUNDAN SINGH

Date of decision: 26/12/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE R.K.ABICHANDANI)

The petitioner challenges the provisions of Rule 3 read with Rule 2(a) of the Octroi Rules framed under Section 457(7) read with Section 149(1) of Bombay Provincial Municipal Corporations Act, 1949 (hereinafter referred to as the Act) by the respondent Corporation to the extent the Corporation is empowered to levy and collect octroi on goods brought within its limits for the purpose of subjecting such goods to a process of bleaching only. It appears that during the pendency of this petition, on 26.8.85, while making the Rule returnable on 16.9.85, the Court granted ad-interim mandatory injunction directing the Corporation to release the goods in question belonging to the petitioner on condition that the petitioner pays the octroi duty under protest. It is stated that the goods were worth Rs.22269/- and the octroi duty payable thereon was Rs.333/-. It appears that as per the directions given by the Court, the goods have been got released on payment of the octroi duty.

2. Under definition clause (a) of Rule 2 of the Rules, import is defined so as to mean conveying the goods into the octroi limits of the Corporation from another area. Under Rule 3 subject to the provisions of the said Act and the Rules made thereunder, octroi is leviable on import of goods prescribed in Schedule-A at the rate specified therein. The Schedule includes cloth, such as cotton textiles. Therefore, the goods in question which were 100 Takas of grey cotton cloth being cotton textiles fell within Schedule-A. The goods were brought in for bleaching purposes which though not for sale and consumption, would fall in the category of "use" since the goods were used for being bleached and bleached textiles would be a different commodity from unbleached raw textiles. Therefore, it can be said that the cloth was put to use for the purpose of bleaching process and came out as a different commodity which has a separate market where bleached cloth is required. In this view of the matter, we do not find any valid ground for striking down the provisions. This application is therefore, rejected. Rule is discharged with no order as to costs.

(R.K.Abichandani,J)

(Kundan Singh,J)

